

SENATE BILL 2273

By Dickerson

AN ACT to amend Tennessee Code Annotated, Section 49-3-370, relative to the funding of educational services to children in residential mental health facilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-3-370, is amended by deleting the section in its entirety and by substituting instead the following:

49-3-370.

(a) A local board of education (LEA) shall allocate funding in an amount equal to the per pupil state funds received by the LEA to state licensed residential mental health facilities on a prorated daily basis for the student's length of stay; provided, that all of the following criteria have been met:

(1) The residential mental health facility operates as a Category I special purpose school pursuant to state board of education rules and regulations and provides a minimum of sixteen and one-half (16½) hours per week of educational instructional services to the students admitted pursuant to this part. The academic instructors and staff employed by, or contracted for by the facility, shall meet all licensure, endorsement and training requirements specified in state and federal law and the rules of the state board of education;

(2) The student admitted to the residential mental health facility was enrolled in an LEA in the academic year immediately preceding admission to the mental health facility and is a currently enrolled student in an LEA; and

(3) The student is admitted to the residential mental health facility under a signed, written order of a qualified physician licensed to practice medicine in

this state, such order being based upon a certification of medical necessity.

Such physician shall not be an employee of the corporation or agency exercising ownership or control of the facility. An LEA shall require a physician attestation form including the patient's name, the date upon which admission was authorized, and the signature of the physician. The physician shall further attest that the need for a medical necessity admission was determined prior to the time of admission of the student to the facility. Such form shall be submitted to the LEA prior to disbursement of funds to the facility.

(b) The funding specified in subsection (a) shall be in addition to funds allocated pursuant to federal law and regulation, including, but not limited to, Title I and ESEA funds.

(c) This part shall not be used or construed to circumvent the requirements of Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq. or any federal administrative or judicial interpretation thereof.

(d) Chapter 10, part 13 of this title shall apply to all state licensed mental health facilities acting as Category I special purpose schools which are receiving state funds and admitting students under this part.

(e) The state board of education shall promulgate rules that provide for the determination of the allocation of funding as provided in this section. All such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

it.